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Attorney for Defendant SYLVESTER MOORE

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 11-00905 SBA
Plaintiff,)	
vs.)	AMENDED STIPULATED REQUEST
)	TO CONTINUE THE STATUS
SYLVESTER MOORE,)	CONFERENCE CURRENTLY
Defendant.)	SCHEDULED ON APRIL 21, 2016
)	AND PROPOSED ORDER.

Plaintiff United States of America and Defendant Sylvester Moore, through their respective counsel, hereby stipulate and jointly request that the Court continue the Status Conference as to Defendant Sylvester Moore, currently scheduled on April 21, 2016, at 9:30 a.m., to June 16, 2016, at 9:30 a.m. The parties have been engaged in an on-going process of plea negotiations and continued researched into sentencing implications to attempt to resolve this case. In order to complete the process, the parties are jointly requesting that the Probation Office conduct a pre-plea investigation of Mr. Moore's criminal history, especially in light of recent Ninth Circuit rulings affecting whether he qualifies as a career offender under Sentencing Guidelines §4B1.1.

Specifically, Mr. Moore's criminal history includes prior convictions for robberies under California law (Penal Code §211). In light of US v. Dixon, 805 F.3d 1193 (9th Cir. 2015), there exists the question of whether or not Mr. Moore's prior California robbery

1 convictions qualify as crimes of violence that would place him in Career Offender status,
2 under USSG §4B1.1. The determination of Career Offender status will have a very
3 significant impact on Mr. Moore's suggested range of imprisonment under the Guidelines.
4 The parties need additional time to complete this evaluation process and are requesting the
5 continuance.

6 Accordingly, the parties jointly request that the Court make a finding, pursuant to 18
7 USC §3161 (h)(7)(B)(iv), to exclude the time from April 21, 2016, to (and including) June
8 16, 2016, in computing the time for the application of the Speedy Trial Act, in order to
9 maintain the continuity of counsel for the defense and to provide defense counsel with
10 reasonable time to adequately prepare Mr. Moore's defense by addressing the significant
11 question or whether he counts as a career offender, and that the Court finds that the ends of
12 justice served by the time exclusion outweigh the interest of the public to a speedy trial. It
13 is so stipulated.

14 Therefore, the parties jointly request that the Court continue the Status Conference
15 from April 21, 2016, to June 16, 2016, at 9:30 a.m. It is so stipulated.

16
17 DATED: April 18, 2016

18 /S/
19 JERRY Y. FONG, Attorney for
20 Defendant SYLVESTER MOORE

21 DATED: April 18, 2016

22 /S/
23 CHRISTINA M. McCALL, AUSA
24 for Plaintiff UNITED STATES OF
25 AMERICA

26 ~~PROPOSED~~ ORDER

27 Pursuant to the parties' stipulation and good cause appearing herein, it is hereby
28 ordered that the Status Conference as to Defendant Sylvester Moore shall be continued from
April 21, 2016, to June 16, 2016, at 9:30 a.m.

1 Furthermore, the Court orders that, pursuant to 18 USC §3161 (h)(7)(B)(iv), the time
2 period between April 21, 2016 and June 16, 2016 shall be excluded for purpose of computing
3 time for the application of the Speed Trial Act, and the Court finds that the continuance and
4 excluded time are necessary to maintain the continuity of counsel and to provide reasonable
5 time for defense counsel to adequately prepare the defense, and that the ends of justice served
6 by the time exclusion outweigh the interest of the public to a speedy trial. It is so ordered.

7
8
9 DATED: 4/19/16


HON. KANDIS WESTMORE,
MAGISTRATE JUDGE